

*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.*

## Proposed Rulemakings

### ■ HOMEOWNER ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed a new Part titled Homeowner Assistance Fund Programs (47 IAC 302; 46 Ill Reg 244) that will, upon adoption, replace emergency rules that were effective 10/6/21 and amended by emergency rulemaking effective 12/20/21 (see Emergency Rules). The proposed rule establishes the Homeowner Assistance Fund (HAF) program funded via the federal American Rescue Plan Act (ARPA) to mitigate hardships to homeowners caused by the COVID-19 public health emergency on or after 1/21/20. Eligible homeowners must have an annual income at or below 150% of area median income. At least 60% of available funds will be reserved for homeowners whose income is at or below 100% of the area or nationwide median income. Remaining funds

### COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

will be prioritized for assistance to socially disadvantaged individuals, defined as persons whose ability to purchase or own a home has been impaired due to diminished access to credit on reasonable terms as compared to others in comparable economic circumstances, stemming from circumstances beyond the individual's control. Indicators of impairment may include being a member of a group that has been

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## Emergency Rulemakings

### DRIVER'S LICENSES

The SECRETARY OF STATE adopted an emergency amendment to Issuance of Licenses (92 IAC 1030; 46 Ill Reg 554) effective 12/17/21 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 46 Ill Reg 445. The emergency and proposed rulemakings implement Public Act 102-678 by extending until 3/31/22 the expiration dates of unexpired driver's licenses, permits and State ID cards that expired in 2020 or 2021, or will expire in January, February or March 2022.

*Questions/requests for copies/ comments on the proposed rulemaking through 2/16/22: Pamela Wright, SOS, 298 Howlett Building, Springfield, IL 62756, [pwright@ilsos.gov](mailto:pwright@ilsos.gov)*

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**ADOPTED RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.  
**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.  
**PEREMPTORY RULES:** Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.  
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.  
**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.  
**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

## Emergency Rules

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### MEDICAID MCOs

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Medical Payment (89 IAC 140; 46 Ill Reg 512) effective 12/16/21 for a maximum of 150 days. An identical proposed amendment appears in this week's *Register* at 46 Ill Reg 242. The emergency and proposed rulemakings increase HFS' Tier 1 provider assessment for Medicaid managed care organizations for State fiscal years 2022 through 2025 from \$61.70 to \$69.70 per member per month, based on enrollment in the base year of 2018. (The Tier 1 assessment applies to the first 4,195,000 member months

recorded in the base year.) Tier 2 assessments (for Medicaid MCO enrollment beyond the first 4,195,000 member months in the base year) and Tier 3 assessments (for non-Medicaid MCOs) are unchanged.

*Questions/requests for copies/comments on the proposed rulemaking through 2/16/22: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Floor, Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)*

### HOMEOWNER ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted emergency amendments to Homeowner Assistance Fund Programs (47 IAC 302; 46 Ill Reg

538) effective 12/20/21, modifying a previous emergency rule adopted 10/6/21 for the remainder of its 150-day term. The amendments clarify various aspects of the Homeowner Assistance Fund Program, including the eligibility period, the application process, procedures for remedying deficient applications, the definition of a socially disadvantaged individual, and applicable State and federal laws and regulations. (The companion proposed rulemaking in this week's Flinn Report includes a full summary of the program.)

*Questions/requests for copies: Kathryn Finn, IHDA, 111 E. Wacker Drive, Suite 1000, Chicago IL 60601.*

## Proposed Rulemakings

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subjected to racial or ethnic prejudice or cultural bias within American society; residing in a majority-minority Census tract; having limited English proficiency; residing in a U.S. territory, Indian reservation, or Hawaiian Home Land; or living in a persistent-poverty county in which 20% or more of the population has lived in poverty over the past 30 years. In addition, IHDA may determine an individual to be socially disadvantaged in accordance with applicable law, which may reasonably rely on self-attestations. Application forms and procedures will be posted on the IHDA website in English and

Spanish and made available in other languages if feasible. If an application is incomplete or deficient, IHDA will notify the applicant and allow them up to 21 days to correct the application. HAF grants of up to \$30,000 per household may be applied to mortgage payments, principal reductions, or interest rate reductions; utility payments including electric, natural gas, and water service; internet services, including broadband; homeowner's insurance, flood insurance, or mortgage insurance; homeowner's association fees or liens; down payment assistance loans from nonprofit or government entities; delinquent property taxes; home repairs needed to maintain

habitability; or other measures to prevent homeowner displacement. Eligible mortgage servicers may receive up to 3 prospective monthly mortgage payments on behalf of an eligible homeowner. An eligible mortgage servicer that receives HAF funds on behalf of an eligible homeowner must agree not to initiate foreclosure, breach of contract, or other action against the homeowner for nonpayment of the mortgage or other fees during the period covered by the grant or during a period when a State or federal foreclosure moratorium was in effect. (Foreclosure may still

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be pursued for other legally permissible reasons.) Funds may also be awarded to eligible agencies for counseling or educational efforts to prevent foreclosure or displacement, planning, community engagement, needs assessment, and administrative expenses (not to exceed 15% of the funding received). HAF grants may also be made to housing stability services (HSS) providers such as community or faith-based organizations, legal assistance groups, counseling agencies, and other entities that specialize in housing or community outreach/engagement. Grants are subject to the conditions of ARPA and the State's Grant Accountability and Transparency Act and may be recaptured in the event of default, fraud or other failure to comply with program rules. Those affected by these rulemakings include eligible households, eligible mortgage servicers, and community or non-profit organizations that qualify for HSS grants.

*Questions/requests for copies/ comments through 2/16/22: Kathryn Finn, IHDA, 111 E. Wacker Drive, Suite 1000, Chicago IL 60601.*

## ■ CDL TRAINING

The SECRETARY OF STATE proposed an amendment to Commercial Driver Training Schools (92 IAC 1060; 46 Ill Reg 448) implementing PA 102-455 by requiring commercial driver

training courses to include instruction on how to interact with law enforcement during traffic stops. The rulemaking also implements Federal Motor Carrier Administration regulations, effective 2/7/22, requiring entry level commercial drivers to complete entry level driving training prior to the issuance of a commercial driver's license. Finally, the rulemaking clarifies that commercial driver training does not include training provided to current or prospective school bus drivers by a school district or regional office of education if no fee is charged to the driver or applicant. Commercial driving schools are affected.

*Questions/requests for copies/ comments through 2/16/22: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, [pwright@ilsos.gov](mailto:pwright@ilsos.gov)*

## MC/DD FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 46 Ill Reg 299) updating numerous provisions affecting facilities that serve developmentally disabled persons with medically complex conditions requiring ongoing specialized medical care.

### Screening Offenders

The rulemaking requires persons age 18 or older who are seeking admission to an MC/DD facility to complete a determination of need

screening and a criminal history background check, including checks of the Illinois and national sex offender registries, prior to admission. Effective 1/1/22, facilities must screen all current residents to determine if they are listed in the Department of Corrections or Illinois State Police sex offender databases. If a resident is identified as an offender, a fingerprint-based criminal background check must be conducted. If an identified offender is living in a facility, other residents, staff and families of residents must be notified, steps taken to insure that the resident does not pose a threat (e.g., separating the offender from other residents), and the offender's plan of care updated at least quarterly. An offender that cannot be managed safely within a facility must be discharged and the facility to which the offender is transferred must be notified of the offender's status.

### Penalties

The rulemaking adds statutory provisions establishing penalties of up to \$10,000 for operating an MC/DD facility without a license; willfully including false or misleading information in any document filing required under the MC/DD Act; interfering with any inspection, survey or evaluation (e.g., by concealing records or retaliating against a resident or employee who cooperates with an investigation); or interfering with efforts to correct violations.

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## Distressed Facilities

Facilities with violations that have caused actual harm to residents may be designated as “distressed facilities” based on a point system that takes into account the type and number of violations occurring within the previous 24 months. DPH will maintain a list of distressed facilities and update the list on a quarterly basis. A distressed facility may hire an independent consultant to assist it in implementing an improvement plan; the facility will have 90 days to develop the plan and another 90 days to achieve compliance with DPH rules. If the facility fails to meet these timelines or does not hire a consultant, DPH will appoint a monitor or temporary manager to oversee an improvement plan. A distressed facility not in compliance with this Part will be prohibited from admitting new residents until DPH has verified it is in compliance. A facility will be removed from the distressed list when it has completed at least 2 annual surveys without being cited for any serious violations, harm to residents, or other aggregate violations that place it in the “distressed” category.

## Other Provisions

Construction standards for existing facilities will apply to facilities licensed as of 1/1/22 (currently, 3/1/80) and new construction standards will apply to facilities initially licensed on or after that date. The rulemaking also adds and updates infection

control protocols and procedures for responding to outbreaks of communicable disease. Other provisions update definitions and incorporations by reference; establish qualifications for direct support persons; update provisions for use of psychotropic medications and physical restraints; clarify how various violations and penalties will be determined or waived; prohibit residents from being referred to unlicensed home health or home services agencies; require facilities to notify DPH and have contingency staffing plans when direct care personnel issue a strike notice; and require facility-specific e-mail addresses for communications with the Department.

*Questions/requests for copies/ comments through 2/16/22: Tracey Trigillo, DPH, 524 S. 2nd St., 6th Fl., Springfield IL 62701, 217/782-1159, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).*

## ■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 46 Ill Reg 201) addressing use agreements between licensed video gaming locations and licensed terminal operators. The rulemaking includes licensed large truck stop establishments among the entities that can be parties to a use agreement. It also requires use agreements to state that they will be modified when necessary to conform to changes in statute, IGB rules or Board orders, and that they will be terminated in the event

the gaming location’s license is denied or not renewed by the Board. If a petition asking IGB to rule on the validity of a use agreement fails to meet all the criteria required by current rules, the IGB Administrator shall notify the petitioner that the petition was not accepted, and this notification shall be considered a final Board order. If a response to a petition does not meet the required criteria, it will also be rejected, but the respondent may be permitted to file an amended response if good cause is shown. Other provisions update or clarify procedures for responding to or withdrawing petitions, filing exceptions or interventions in a petition case, and settling disputes with the assistance of a neutral third party. Small businesses and non-profit organizations with licensed video gaming locations may be affected.

*Questions/requests for copies/ comments through 2/16/22: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, [IGB.RuleComments@illinois.gov](mailto:IGB.RuleComments@illinois.gov)*

## ELECTRIC GRID CONNECTION

The ILLINOIS COMMERCE COMMISSION proposed amendments to the Parts titled Electric Interconnection of Distributed Generation Facilities (83 IAC 466; 46 Ill Reg 1) and Electric Interconnection of Large Distributed Generation Facilities (83 IAC 467; 46 Ill Reg 124), both implementing Public Act 102-662. The Part 466 rulemaking, upon

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# Proposed Rulemakings

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adoption, will replace emergency rules that were effective 12/14/21. Both rulemakings replace “Generation” with “Energy Resources” in the names of their respective Parts and extend these rules to facilities that store, as well as generate, energy in parallel with the grid distribution system. Part 466 applies to facilities with generating capacity of 10 megavolt amperes (MVA) or less, while Part 467 applies to facilities with generating capacity greater than 10 MVA. The Part 466 rulemaking sets the standardized cost for a Level 1 interconnection request at \$200. Both rulemakings update numerous technical provisions and administrative procedures and address situations in which one facility’s ability to interconnect or upgrade hinges on the outcome of another interconnection request with priority over the first facility’s request. Those affected by these rulemakings include electric utilities and owners of distributed generation or energy storage facilities.

## ICC RULE WITHDRAWAL

ICC also withdrew proposed amendments to Electric Interconnection of Large Distributed Generation Facilities (83 IAC 467; 45 Ill Reg 120) that were published in the 1/4/21 *Register*. The new proposed rulemaking in this week’s *Illinois Register* replaces the withdrawn amendments.

*Questions/requests for copies/ comments on the 2 ICC rulemakings through 2/16/22: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Please reference Docket 20-0700.*

## WORKERS’ COMPENSATION

The DEPARTMENT OF INSURANCE proposed amendments to Workers’ Compensation Rate and Manual Filing (50 IAC 2902; 46 Ill Reg 262) requiring companies to notify DOI at least 30 days prior to (currently, 30 days after) the effective date of any rule change filed by its rating organization and adopted without modification by the company.

## DOI FORMS

DOI also proposed amendments to Registration of Workers’ Compensation Utilization Review Organizations (50 IAC 2905; 46 Ill Reg 269), Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds (50 IAC 4404; 46 Ill Reg 283), and Managed Care Reform & Patient Rights (50 IAC 4520; 46 Ill Reg 290) that remove examples of printed forms currently contained in those Parts and instead require use of standardized forms posted at the DOI website.

*Questions/requests for copies/ comments on the 4 DOI rulemakings through 2/16/22: Susan Anders, DOI, 320 W. Washington St., 4<sup>th</sup> Fl., Springfield IL 62767, 217/558-0957.*

## MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Assistance Programs (89 IAC 120; 46 Ill Reg 222) that moves the due date for premium payments for the Health Benefits for Persons with Disabilities program from the last day of the month to the 20<sup>th</sup> day of the month.

*Questions/requests for copies/ comments through 2/16/22: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Floor, Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)*

## SBEL PERSONNEL

The STATE BOARD OF ELECTIONS proposed an amendment to the Part titled Personnel (26 IAC 212; 46 Ill Reg 496) that defines the Administrative Services Division of SBEL as the entity responsible for addressing requests for parental leave. The rulemaking also increases the maximum paid leave time for SBEL employees after the birth or adoption of a child from 4 weeks (20 work days) to 10 weeks (50 work days) per 12-month period. Parental leave must be used within 6 months after the birth or adoption.

*Questions/requests for copies/ comments through 2/16/22: Marni M. Malowitz, SBEL, 69 W. Washington St., Pedway LL08, Chicago IL 60602.*

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will appear in next week's *Illinois Register* and be considered at the January 11, 2022, JCAR meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### DEPT OF COMMERCE & ECONOMIC OPPORTUNITY

Job Training and Economic Development Grant Program (Repealer) (56 IAC 2660; 45 Ill Reg 12935) proposed 10/15/21

Job Training and Economic Development Grant Program (New Part) (56 IAC 2660; 45 Ill Reg 12938) proposed 10/15/21

### DEPT OF PUBLIC HEALTH

Authorized Electronic Monitoring in Long-Term Care Facilities Code (77 IAC 389; 45 Ill Reg 13152) proposed 10/22/21

### DEPT OF HUMAN SERVICES

Medicaid Community Mental Health Services Program (59 IAC 132; 45 Ill Reg 11735) proposed 10/1/21

Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; 45 Ill Reg 11737) proposed 10/1/21

Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind (89 IAC 730; 45 Ill Reg 11791) proposed 10/1/21

Role of Residential Educational Facilities Operated by the Illinois Department of Human Services (89 IAC 750; 45 Ill Reg 11793) proposed 10/1/21

### OFFICE OF THE TREASURER

College Savings Pool (23 IAC 2500; 45 Ill Reg 13169) proposed 10/22/21

## Joint Committee on Administrative Rules

**Senator Bill Cunningham, *co-chair***  
**Senator John F. Curran**  
**Senator Donald DeWitte**  
**Senator Kimberly Lightford**  
**Senator Tony Muñoz**  
**Senator Sue Rezin**

**Representative Tom Demmer**  
**Representative Michael Halpin**  
**Representative Frances Ann Hurley**  
**Representative Steven Reick**  
**Representative Curtis Tarver, II**  
**Representative Keith Wheeler, *co-chair***

**Kim Schultz**  
**Executive Director**